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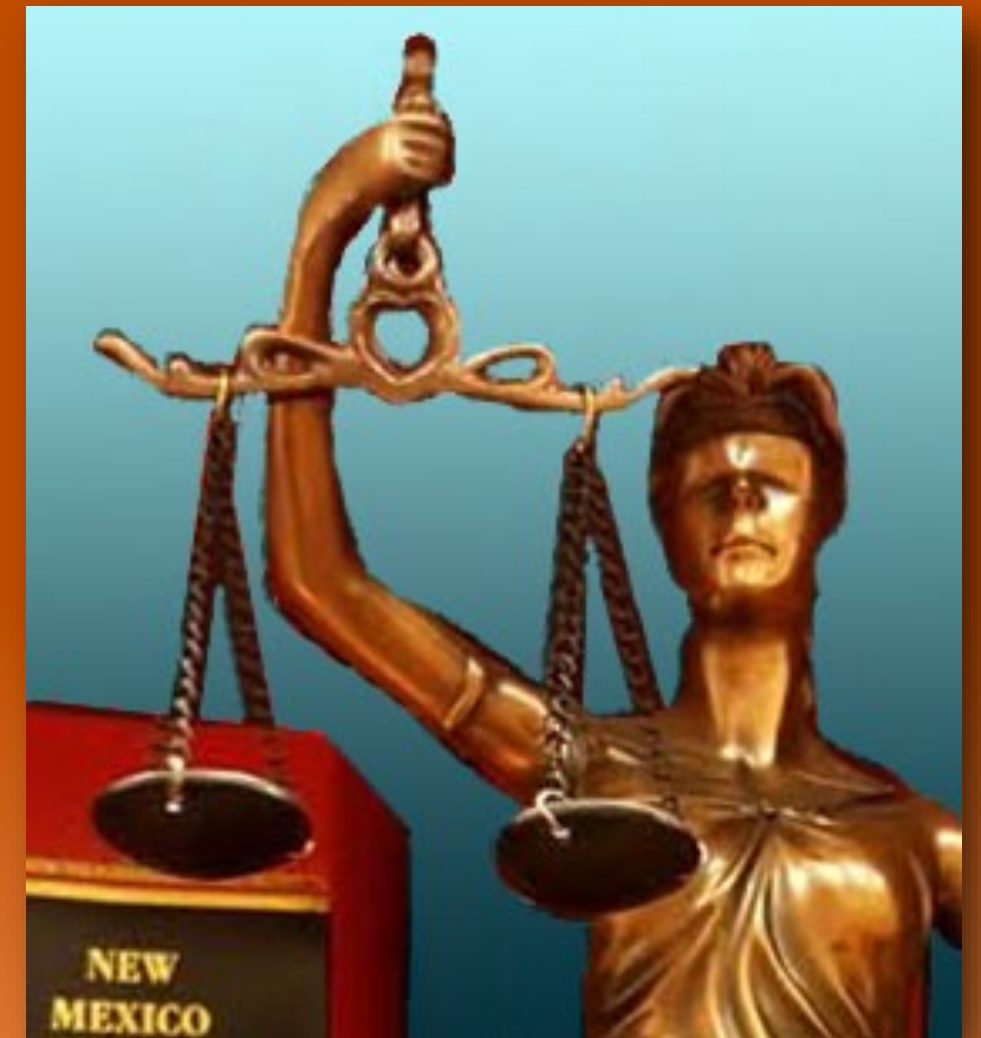
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# Judiciary 101

## 2019 Presentation



## New Mexico Judicial Branch

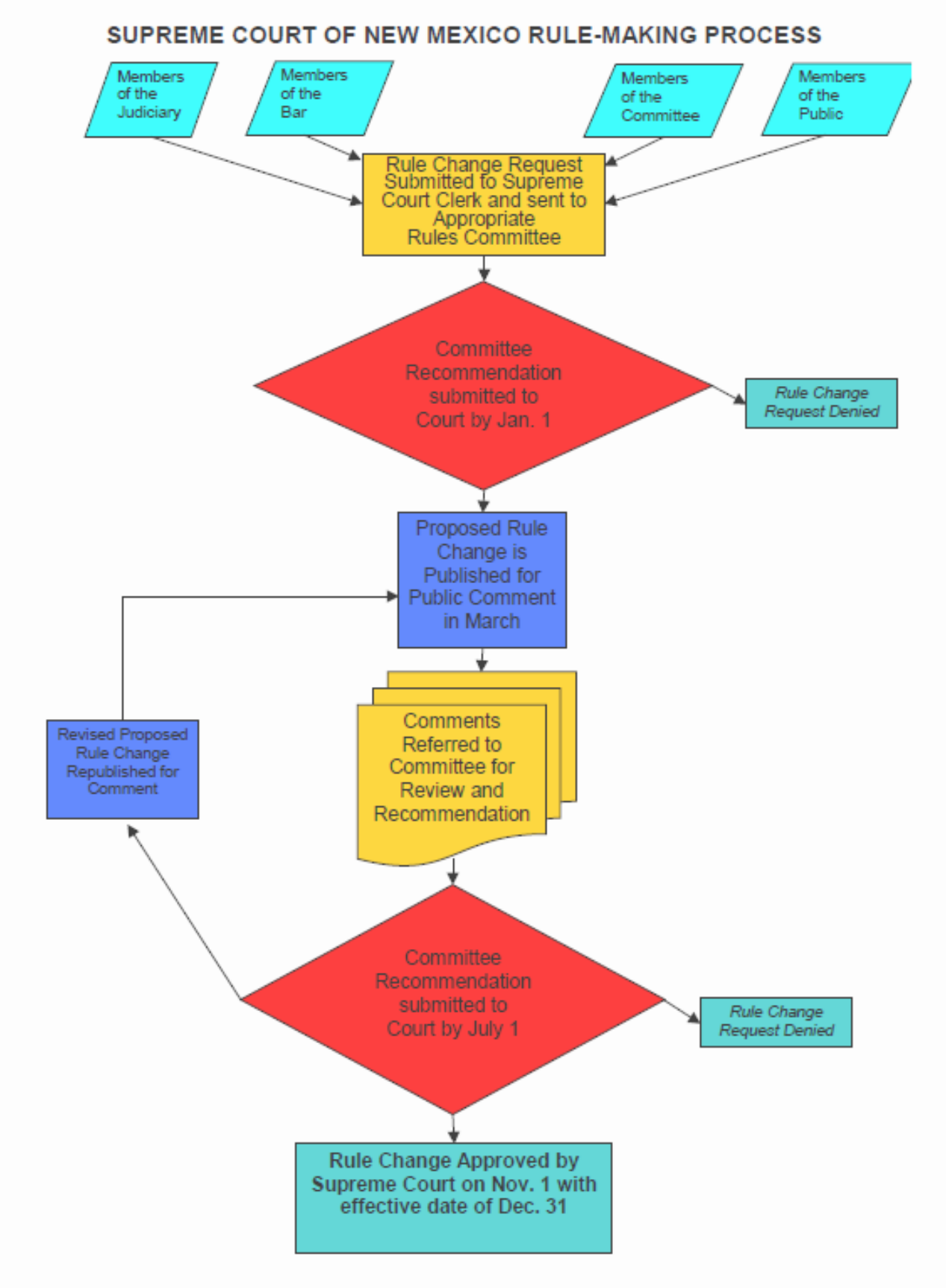
# Notes

# Constitutional Amendment

The amendment reads: “All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great and in situations in which bail is specifically prohibited by this section. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted. Bail may be denied by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community. An appeal from an order denying bail shall be given preference over all other matters. A person who is not detainable on the grounds of dangerousness nor a flight risk in the absence of bond and is otherwise eligible for bail shall not be detained solely because of financial inability to post a money or property bond. A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property bond may file a motion with the court requesting relief from the requirement to post bond. The court shall rule on the motion in an expedited manner.”

- District judges for the first time in state history can lawfully hold a felony defendant in jail before trial if the person is shown to be too dangerous for release.
- Defendants who are not dangerous or a flight risk cannot be held in jail pretrial solely because they cannot afford a bail bond.
- The Supreme Court approved new rules of procedure in criminal cases to implement and enforce provisions of the constitutional amendment. The rules went into effect on July 1, 2017.
- Under the amendment and rules, pretrial release and detention decisions must be based on evidence of the public safety risk posed by a defendant and the risk that a defendant will fail to appear at future court hearings –not on whether the defendant can afford a monetary bail bond.
- Fixed-money bond schedules, often called jailhouse bond schedules, cannot be used because they do not take into account evidence of a defendant’s dangerousness or flight risk.
- Pretrial detention of a defendant may occur only if a prosecutor files a written motion with the court and proves by clear and convincing evidence that pretrial jailing is necessary for the public safety. Judges cannot initiate a pretrial detention proceeding.
- The constitution requires that a detention order be issued by a “court of record,” which currently means a district court and not the magistrate, metropolitan or municipal courts.

# Supreme Court



# Table of Contents

Overview ..... 1

New Mexico State Courts Map ..... 2

Time Sequence for Typical Civil Case ..... 3

Time Sequence for Typical Criminal Case..... 4

Magistrate Courts..... 5

Metropolitan Court ..... 7

District Courts..... 8

Court Of Appeals ..... 11

Supreme Court ..... 14

Constitutional Amendment ..... 16

Contacts ..... Back cover

## Glossary (from Black’s Law Dictionary and NM Statute)

- Arraignment: Initial step in a criminal prosecution whereby a defendant is brought before the court to hear charges and enter a plea.
- Arrest Warrant: A warrant, issued only on probable cause, directing a law-enforcement officer to arrest and bring a person to court.
- Bench Warrant: A writ issued directly by a judge to a law-enforcement officer for the arrest of a person who has been held in contempt, has been indicted, has disobeyed a subpoena, or has failed to appear for a hearing or trial.
- Bond: A written promise to pay money if certain circumstances occur.
- Felony: Serious crime punishable by imprisonment for more than one year, or a capital crime.
- Misdemeanor: Crime less serious than a felony punishable by a fine and/or imprisonment for less than a year.
- Petty Misdemeanor: A crime is a petty misdemeanor if it is so designated by law or if upon conviction thereof a sentence of imprisonment for six months or less is authorized. 30-1-6 C
- Preliminary Examination: Hearing to determine whether there is sufficient evidence to prosecute an accused person.
- Probable Cause: A reasonable ground to suspect that a person has committed a crime.
- Search Warrant: A judge’s written order authorizing a law-enforcement officer to conduct a search of a specified place and to seize evidence.
- Warrant: A writ directing or authorizing someone to do an act, specifically, one directing a law enforcer to make an arrest, a search, or a seizure.



## Overview

| Courts             | Justices/Judges | Locations | Staff |
|--------------------|-----------------|-----------|-------|
| Supreme Court      | 5               | 1         | 53    |
| Court of Appeals   | 10              | 2         | 51.5  |
| District Court     | 94              | 34        | 969   |
| Metropolitan Court | 19              | 1         | 318   |
| Magistrate Court   | 67              | 46        | 220   |
| Municipal Court    | 83              | 81        | *     |
| Probate Court      | 33              | 33        | —     |

\* Managed by individual municipalities

**Supreme Court** - The Supreme Court, located in Santa Fe, consists of five Justices. This is the court of last resort and has superintending authority over all inferior courts and attorneys licensed in New Mexico.

**Court of Appeals** - Ten Court of Appeals judges preside in panels of three. The court has offices in Santa Fe and Albuquerque. Jurisdiction is primarily mandatory and the Court must hear criminal and civil appeals from district courts and certain administrative agency decisions.

**District Courts** - Ninety-four district court judges preside in thirteen districts. These are courts of general jurisdiction which hold jury trials. The district courts hear tort, contract, real property, estate cases, and adult and juvenile criminal cases. Jurisdiction includes domestic relations, mental health, appeals from administrative agencies and lower courts, some civil cases, and misdemeanors.

**Magistrate Courts** - Sixty-seven magistrate judges preside in courts at 46 locations. These are courts of limited jurisdiction which hold jury trials. Jurisdiction includes tort, contract, and landlord/tenant rights in cases up to \$10,000. Magistrate courts also hold jurisdiction over felony preliminary hearings, misdemeanors, DWI/DUI cases, and other traffic violations.

**Bernalillo County Metropolitan Court** - Nineteen Metropolitan Court judges preside in this court of limited jurisdiction which holds jury and non-jury trials. The judges preside over cases including tort, contract, landlord/tenant rights up to \$10,000, felony first appearances, misdemeanors, DUI and other traffic violations, and is a court of record for domestic violence and DWI cases.

**Municipal Court** - Eighty-three municipal court judges preside in eighty-one municipal courts. These courts of limited jurisdiction do not hold jury trials. Judges will hear petty misdemeanor, DWI/DUI, traffic violations, and municipal ordinance violation cases. These courts are managed by individual municipalities, not the state.

**Probate Court** - Thirty-three probate court judges preside, one in each of New Mexico's counties. These courts of limited jurisdiction do not hold jury trials, and hear informal probate and estate cases. Judges are elected for four-year terms.

## Supreme Court

### Jurisdiction

The Supreme Court's jurisdiction is primarily **discretionary**—meaning that it decides whether to hear the matter—for all types of cases except criminal cases where life imprisonment or the death penalty are sought, or appeals from decisions of the Public Regulation Commission. Most types of cases must first be appealed to the Court of Appeals. Parties may then ask the Supreme Court, through a petition for writ of certiorari, to review the decision of the Court of Appeals.

### The Rulemaking Process

The rule-making process is usually initiated by a request for a rule change submitted to the Court Clerk, who will then refer the request to the rules committee that has jurisdiction over the subject matter involved.

The Supreme Court will generally give rule changes an approval date of November 1 and an effective date of December 31. Out-of-cycle rulemaking is allowed if emergency circumstances exists.

Proposed rule changes are usually published for a 30-day public comment period on the Court's website with a short summary of the proposals distributed electronically and published in the Bar Bulletin.

After the comment period ends, the comments are forwarded to the appropriate rules committee for evaluation, which makes a follow-up recommendation to the Supreme Court.

If the Supreme Court accepts the committee's recommendation to adopt a proposed rule change, the new or revised rule will be posted on the New Mexico Compilation Commission's website with a short summary of the change distributed electronically and published in the Bar Bulletin.

### Committees

The Supreme Court has the authority to appoint standing and ad hoc committees to assist the Court with its superintending control over the bench and bar.

Standing committees oversee the Rules of Civil and Criminal Procedure, Uniform Jury Instructions, Children's Court Rules, and other rule sets and topics of judicial administration. Ad hoc committees are created for a limited time to address issues of current public concern, such as guardianship.

Standing committees are usually comprised of nine members, while ad hoc committees will be comprised of as many members as the Supreme Court deems necessary.

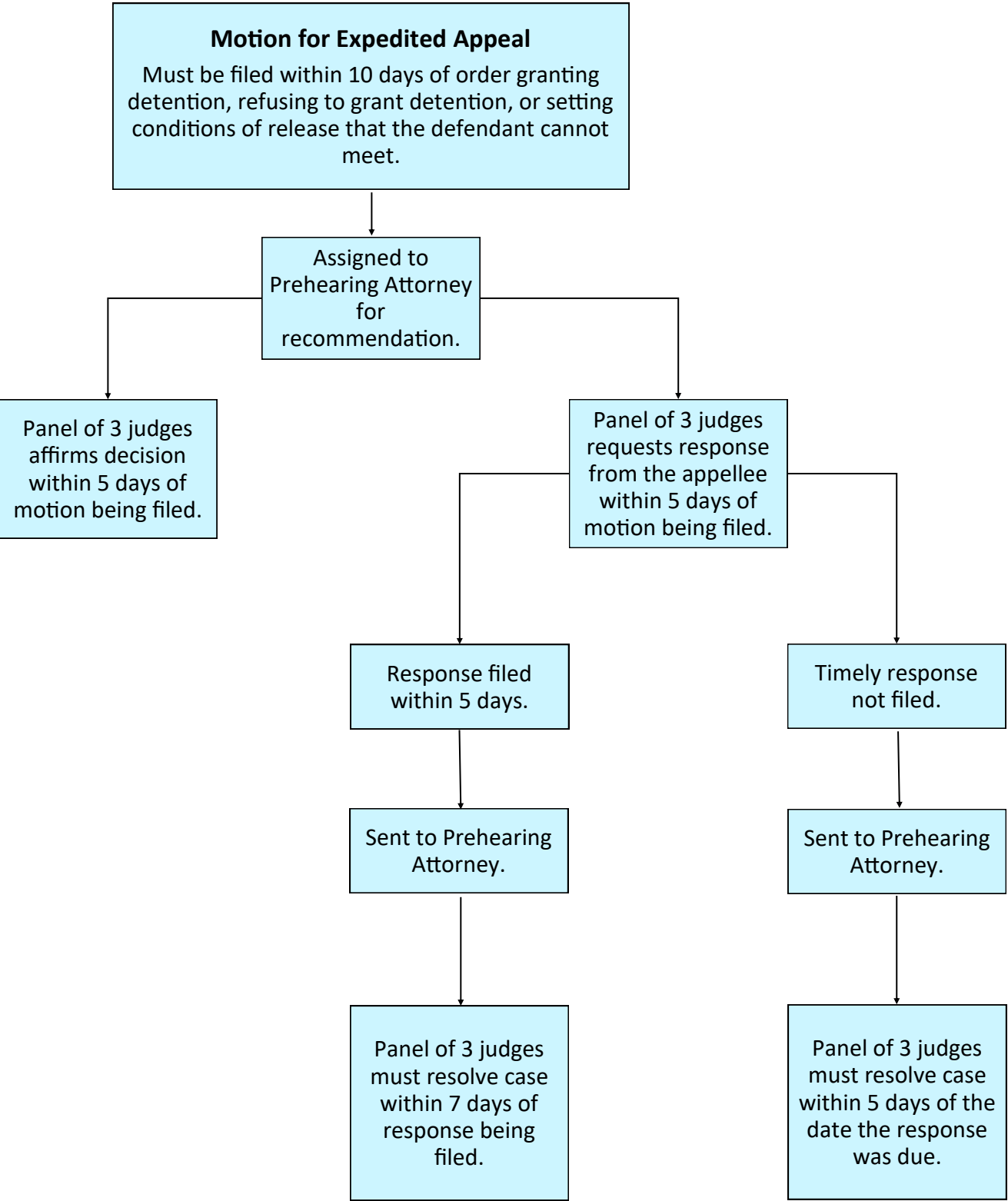
Committee membership reflects geographic balance and members of diverse practices across the bar, such as prosecutors, defense attorneys, private attorneys, and government attorneys.

Ad hoc committee membership reflects the same consideration, and can include a wider variety of representation.

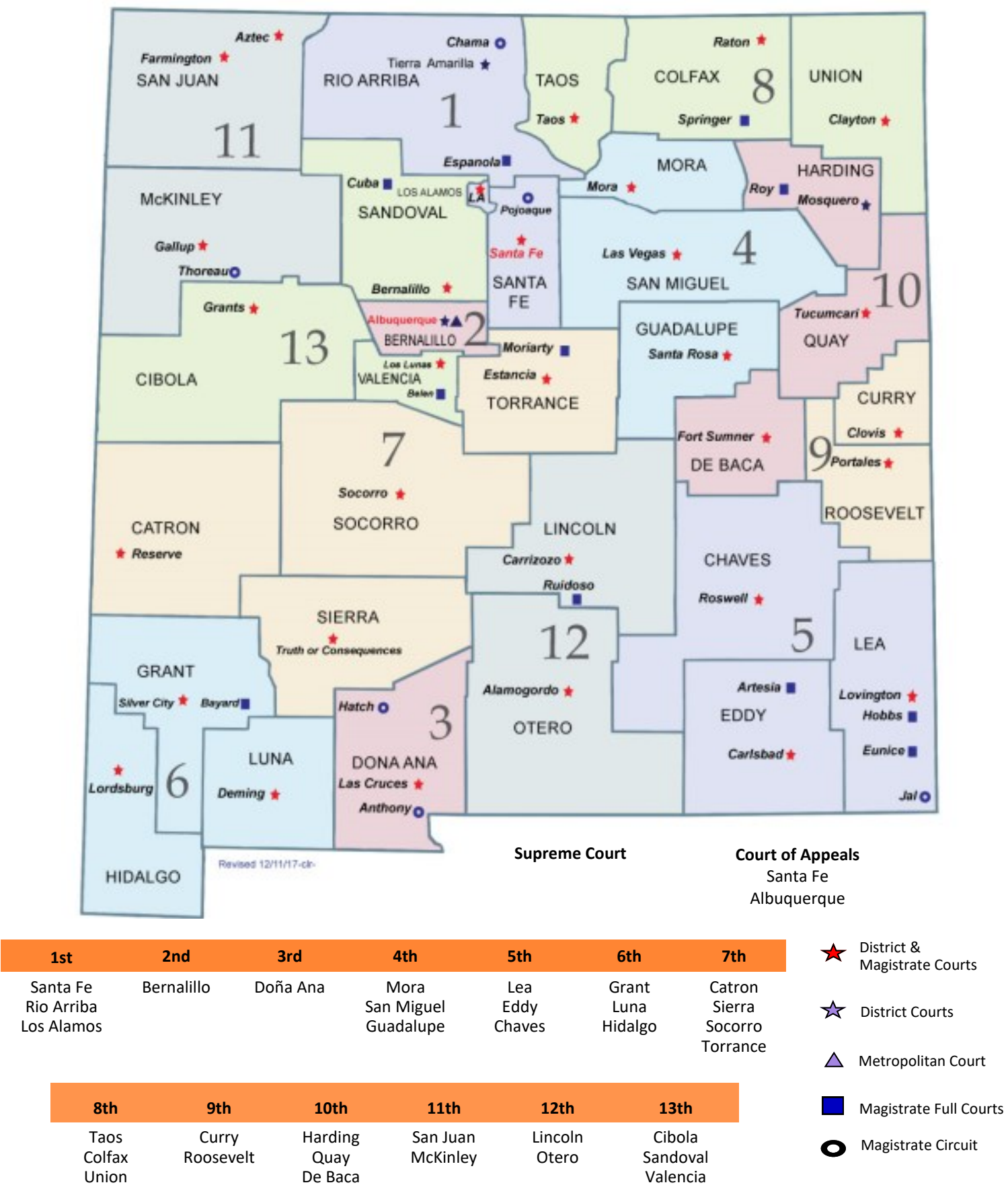
Terms of appointment for standing committee members are usually three years, while the terms for ad hoc committee members will generally last for the duration of the ad hoc committee's existence.

# New Mexico Court of Appeals (con't)

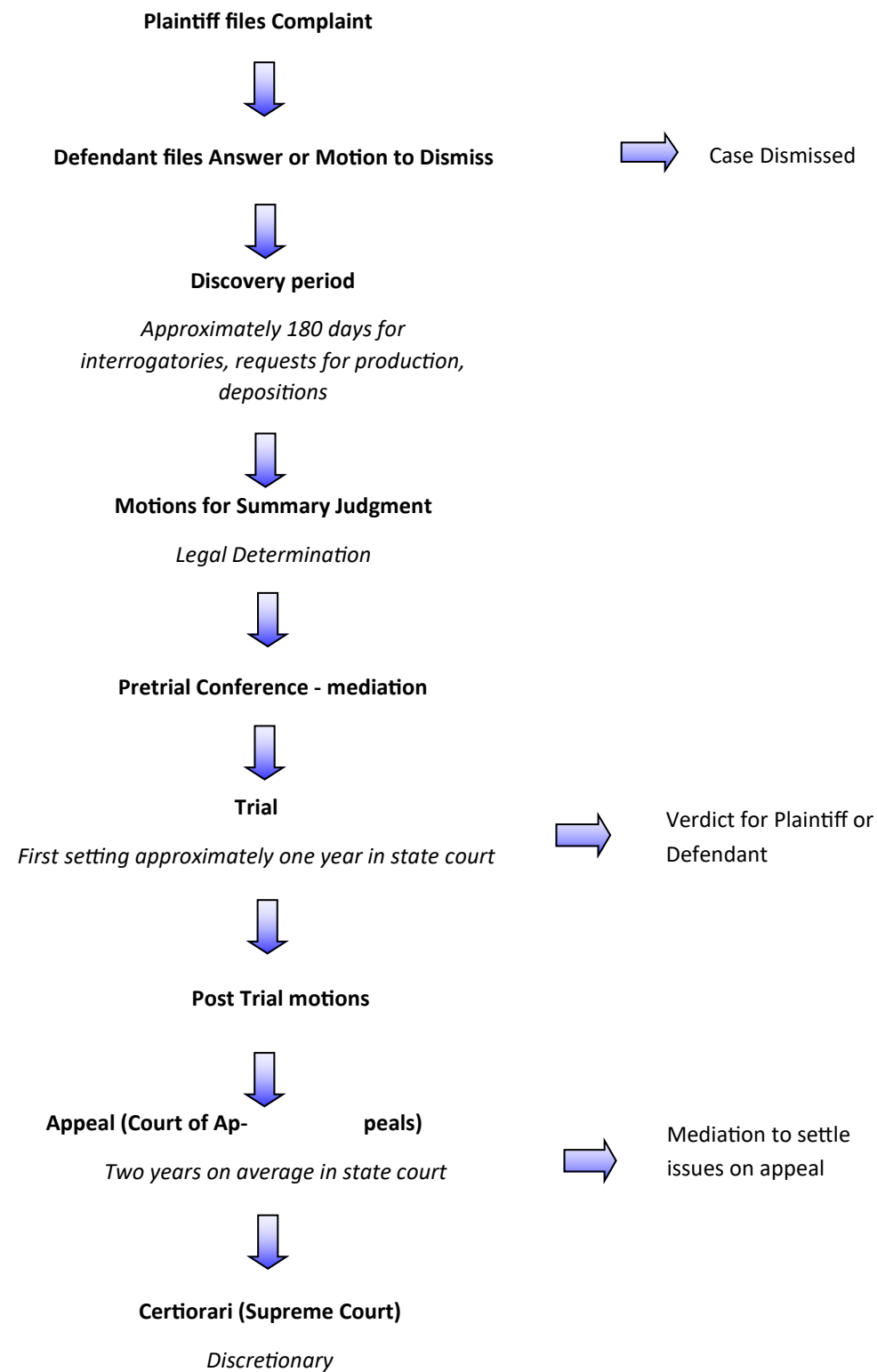
Process in the Court of Appeals for a detainee’s appeal of detention:



# New Mexico State Courts



## Time Sequence for Typical Civil Case\*



## New Mexico Court of Appeals (con't)

The Prehearing Division and Mediation Division programs at the Court of Appeals are unique among Courts of Appeals in the United States.

### Prehearing Division

The Prehearing Division is comprised of a director, staff attorneys, and an administrative assistant.

Every Court of Appeals case (with few exceptions) receives an initial work-up, including calendaring.

The case calendaring process requires recommendations about assignment to general or summary calendar.

65-70% of cases are decided summarily, mostly by 3-judge panels.

The Prehearing Division mentors and holds weekly meeting with the Court's ten law clerks.

Unlike other state courts of appeal which often issue opinions that simply say "affirmed" or "reversed," the New Mexico Court of Appeals is unique in that it issues opinions with legal and factual analyses which allows the parties to engage in a dialogue with the Court before incurring the substantial expense of fully proceeding with the appeal.

### Mediation Division

All cases, both civil and criminal, are eligible for mediation.

Over the years, the Court of Appeals mediator has resolved civil matters, criminal matters, domestic relations matters, child custody issues, workers compensation cases, and adoption cases.

Mediation conferences held by the Mediation Division are designed to reduce the time and expense of civil appeals.

Mediation conferences offer parties confidential, no-cost, risk-free opportunities to explore settlement options.

Mediation services are available at any time during the pendency of an appeal.

# New Mexico Court of Appeals

The Court of Appeals’ jurisdiction, with few exceptions, is primarily mandatory—meaning that the parties have the right to appeal and the Court must hear the case including all criminal and civil appeals from district courts. In addition, the Court of Appeals has jurisdiction over certain administrative agency decisions specifically set forth in statute, including the Workers’ Compensation Administration, Taxation & Revenue Department, Environmental Improvement Board, Water Quality Control Commission, and the Air Quality Bureau. Appeals of almost all other administrative agency decisions must first be taken to district court. The Court of Appeals has **discretionary** jurisdiction over district court cases that are appeals of administrative agency decisions and applications for interlocutory appeals. The Court of Appeals prioritizes cases as follows:

**First Priority:** These cases are always submitted to a panel of judges the month immediately following the date they become fully briefed by the parties:

- Interlocutory Appeals
- Children’s Court Cases
- Domestic Relations Cases Involving Child Custody or Child Support
- Mental Health Cases

**Second Priority:** Criminal Cases

**Third Priority:**

- Workers’ Compensation Cases
- Unemployment Cases

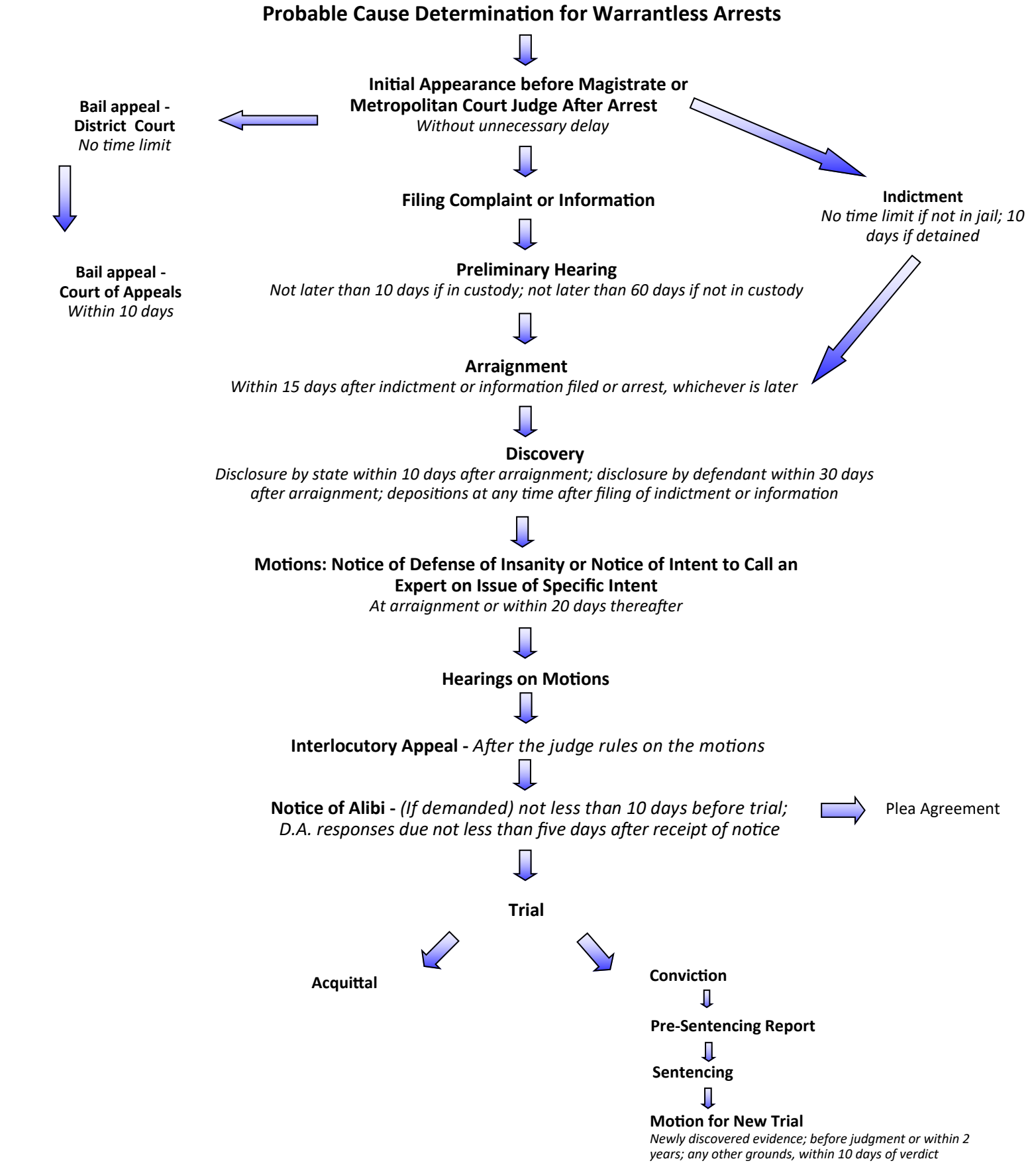
**Fourth Priority:**

- Administrative Appeals

The Court of Appeals had 919 new cases in FY 2018:

| Category  | Total Filed | Percentage of Cases Filed |
|---|-------------|---------------------------|
| Criminal  | 349         | 38%                       |
| General Civil (including mental health, medical malpractice, other civil cases and contracts, and others) | 294         | 32%                       |
| Discretionary   | 64          | 7%                        |
| Domestic  | 28          | 3%                        |
| Administrative/Workers Compensation   | 46          | 5%                        |
| Children’s Court  | 64          | 7%                        |
| Rule 12-204 Pretrial Detention  | 74          | 8%                        |

# Time Sequence for Typical Felony Case\*



\*Adapted from “Legal Guide for Journalists,” undated, State Bar of New Mexico, [www.nmbar.org](http://www.nmbar.org)



## Magistrate Courts

### Jurisdiction

“A court of limited original jurisdiction with the judicial department of the state government.”  
NMSA 35-1-1

**Oaths:** Magistrates may administer oaths and affirmations.

**Marriages:** Magistrates may solemnize the contract of matrimony.

**Civil:** Magistrates have jurisdiction in civil actions in which the debt or sum claimed does not exceed \$10,000.

### Criminal:

Magistrates have jurisdiction in all cases of misdemeanors and petty misdemeanors, including county ordinances.

Magistrates may hold preliminary examinations in felony cases.

Magistrates have jurisdiction in any other criminal action granted by law. (e.g., Fish & Game)

### Territorial Limits

In FY 2018, there were 158,485 filings in magistrate courts  
And 290,254 hearing were held.

### Cases Filed in Magistrate Courts, by Type

#### Criminal

*Felony (total)* 16,289

Domestic violence 974

DWI 518

*Misdemeanor (total)* 35,862

Domestic violence 5,676

DWI 4,967

*Traffic* 88,342

#### Civil

Landlord/Tenant 6,093

General 9,251

#### Bench Warrants

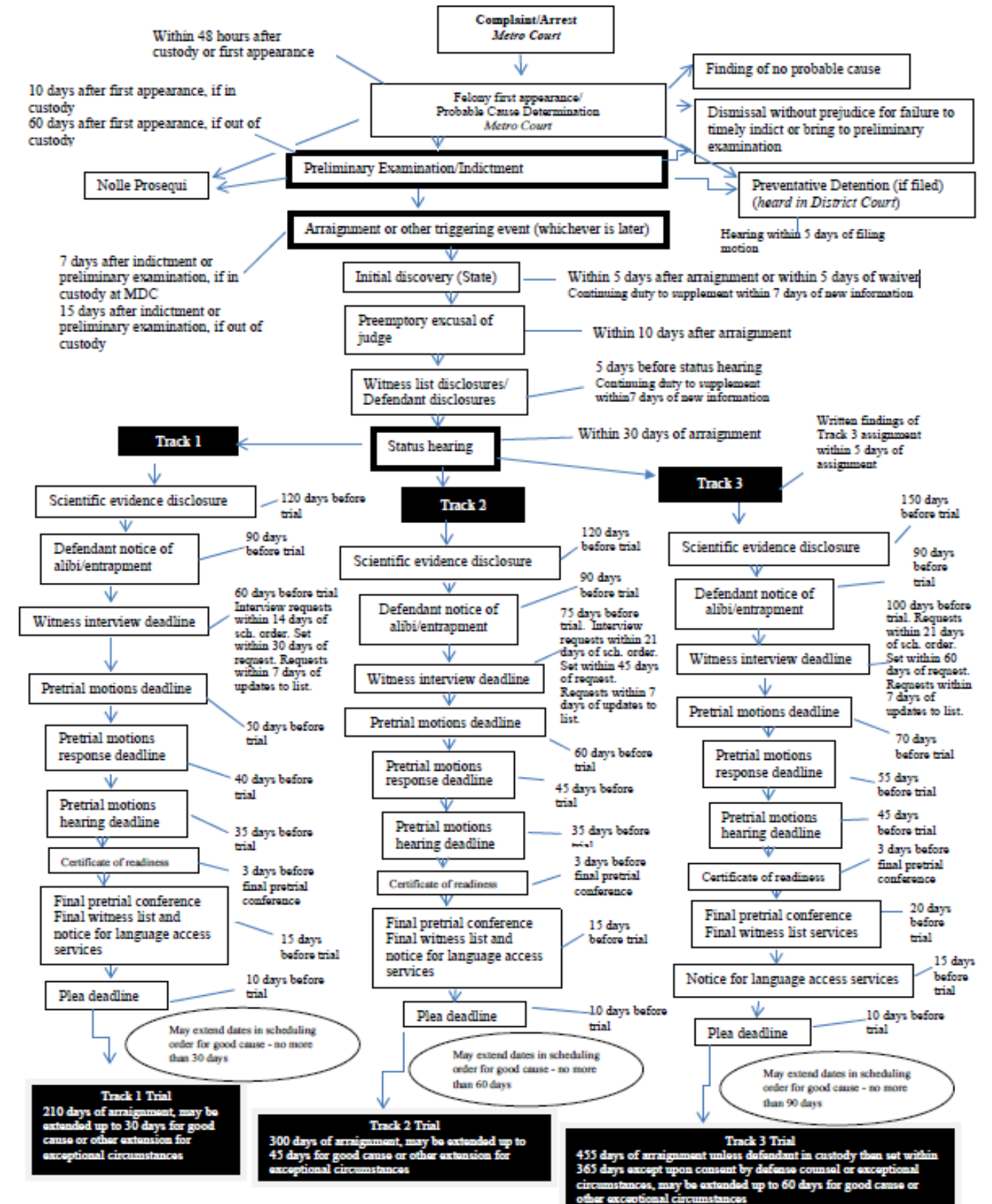
**140,493**

**15,344**

**99,793**

## District Courts - Criminal Actions

This is the flow chart for cases under the current Case Management Order (CMO) in the Second Judicial District Court.





## District Courts - Civil Actions (see chart on p. 3)

Civil cases are court actions between private individuals, companies, businesses, and corporations. Tort cases, personal injury, breach of contracts cases, and land disputes generally seek:

- Money damages
- Injunctions (orders to do something or refrain from something)
- Declaratory judgments (asking a court to declare ones rights under a contract or law)

**Other types of civil cases include:**

- Harassment and protection
- Evictions, housing and foreclosures
- Probates and guardianships
- Domestic relations (divorces, child custody cases)

**Larger district courts have a Civil Division and/or a Family Court Division. In smaller districts, each judge hears all case types. In many districts, commissioners hear domestic cases.**

**Civil cases make up about 75% of a district court's docket.**

- There are about 60,000 new civil cases filed in New Mexico each year
- Nearly 30,000 older cases are reopened each year
- With about 90 district court judges, that averages to about 1,000 active civil cases per judge per year
- The number of new and reopened civil cases increased almost 5% in FY 2018
- Nearly 5,000 cases a year involve requests for filing fee waivers and free service of process
- About half of all civil cases involve at least one party who is self-represented

**Very few civil cases resolve though a jury or bench trial. Most settle by compromise, are dismissed for legal reasons, or are dismissed for lack of prosecution.**

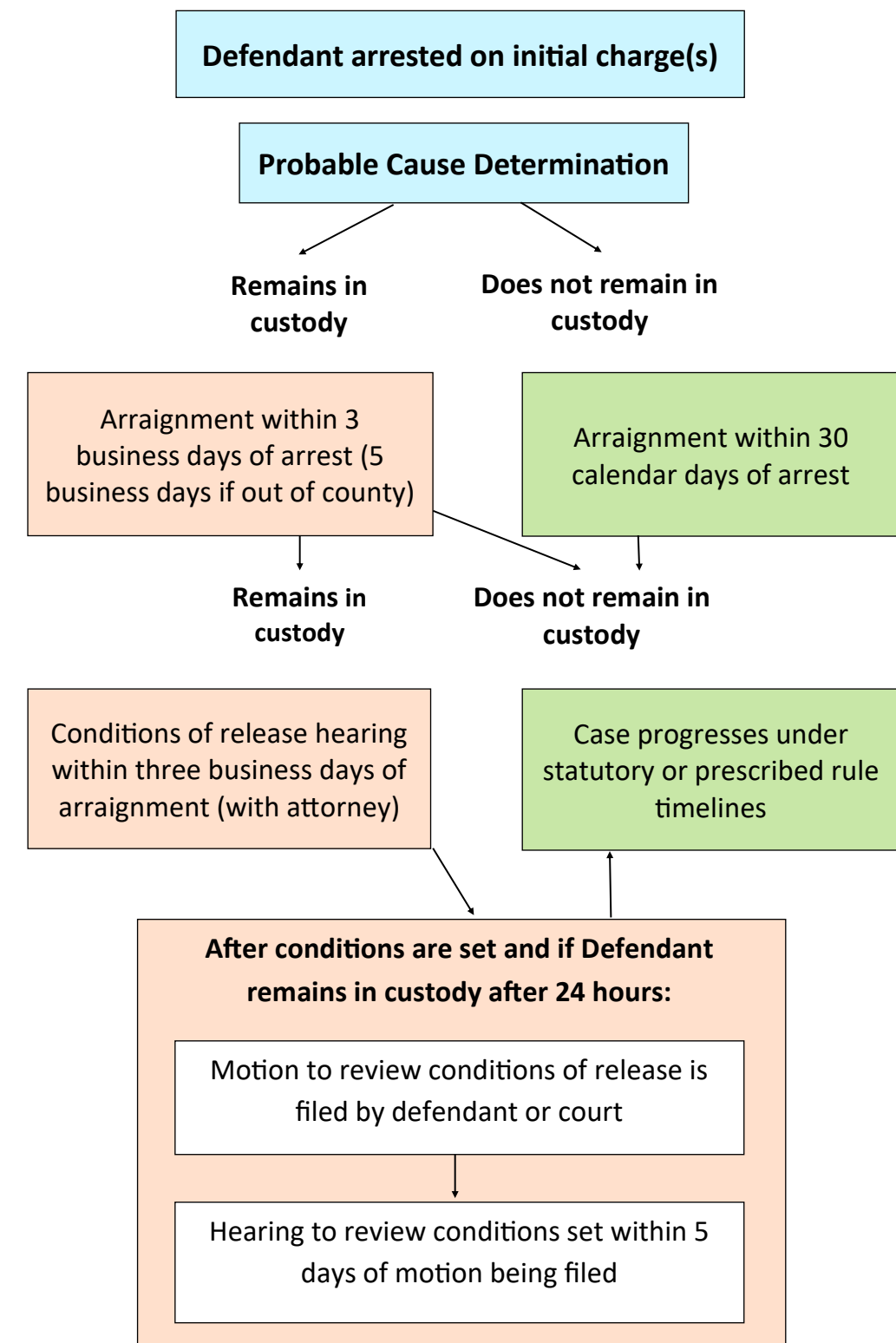
- Judges hear scheduling conferences, motion hearings, and discovery disputes in each civil case
- Less than 1% of all civil cases go to trial
- District courts conducted 52 civil jury trials last year
- District courts conducted 265 civil bench trials last year

**Mediation speeds civil cases to resolution. Here are some ways a case can get resolved by mediation:**

- Attorneys direct high dollar cases to mediation
- Scheduling orders often require parties to mediate (court-connected or private mediation)
- Albuquerque courts require mandatory arbitration sending cases to members of the bar
- Santa Fe and Las Cruces send civil cases to attorneys under contract with the courts
- The Second and the Thirteenth Districts have in-house foreclosure mediation programs
- Most districts have court-attached mediation programs for domestic relations cases
- Rural courts are in the process of establishing court-attached civil mediation programs
- Court mediations are supported by a \$15 filing fee in civil cases and a \$30 filing fee in domestic cases

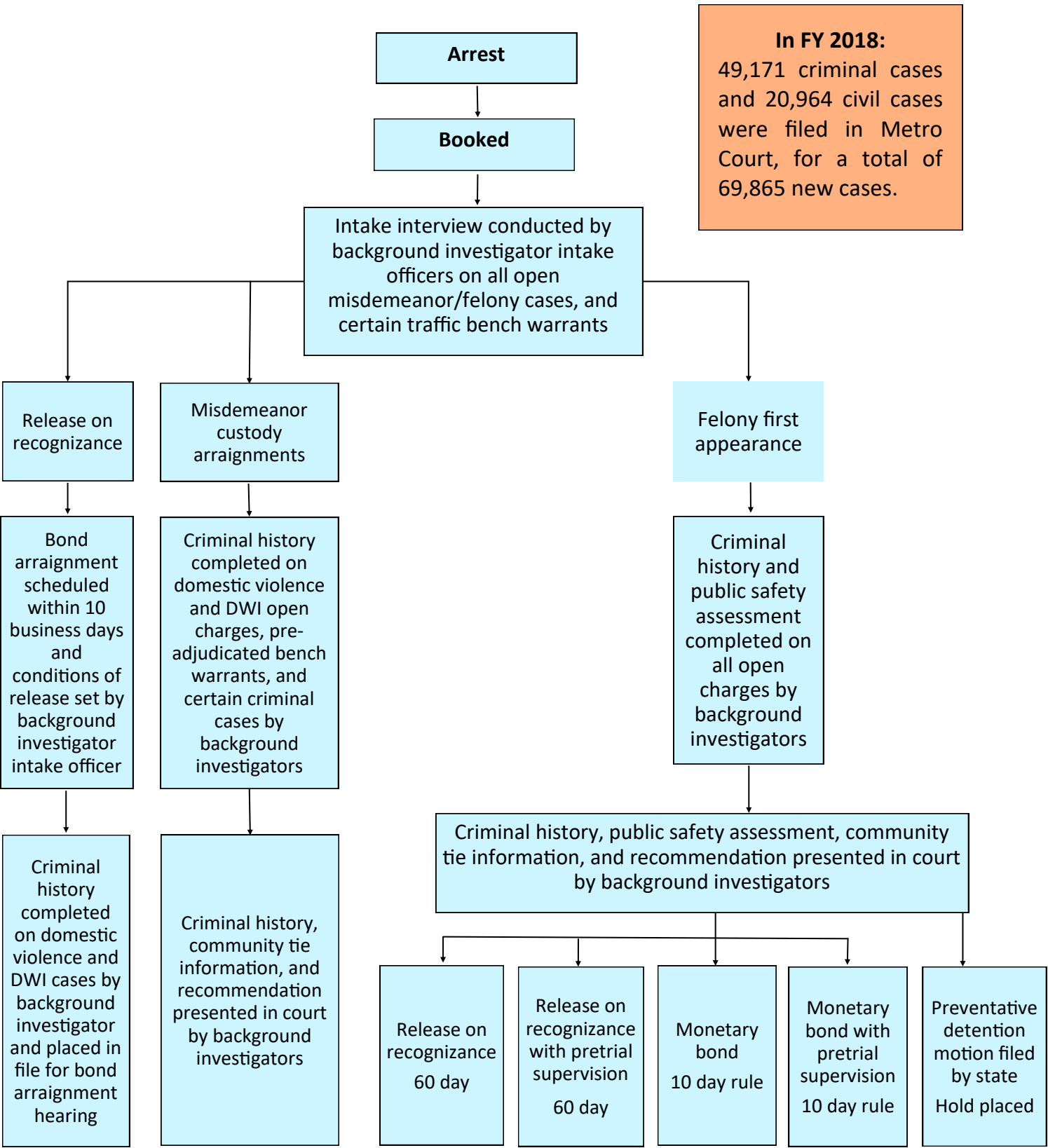
## Magistrate Courts (con't)

### Criminal Case Timelines and Process



# Metropolitan Court

## Arrest through Arraignment (or Felony First Appearance) Process in the Bernalillo County Metropolitan Court



# District Courts

**In FY2018:** Civil cases made up 74% of new and reopened cases in district courts. Criminal cases in district court returned to FY2014 levels after a decline in FY2016, but during that same period civil cases have increased 8% (7,775).

